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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,336	06/13/2001	Garri Kimovich Kasparov	204271US2PCT	5069

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MARKS, CHRISTINA M

ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 12/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/786,336	Applicant(s) KASPAROV ET AL.	
	Examiner C. Marks	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 June 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *6* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Priority

In an Application filed under 35 U.S.C. 371, an acceptable oath/declaration must be filed to meet the requirements under 35 U.S.C. 371. A filing date is granted once all of the requirements under 35 U.S.C. 371(c) have been met. In the present case, the oath/declaration was not filed until June 13, 2001. Under Article 22, Applicants have 30 months from the priority date to enter the National Stage if a demand for an international preliminary examination is filed. With a filing date of June 13, 2001, Applicant has exceeded their priority date by 33 months; therefore, priority has not immediately been granted.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show proper detail in that FIGS 1-4 and 8 show no adequate detail, only an illustration of a flowchart pointing to numbered, non-named, steps. The drawings must be as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

The listing of references (DE 4307800 C1, page 4, line 1; EP 0426163, page 10, line 30 and Russian patent N 2080138, page 15, line 24) in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other

information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-35 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Based upon reading the disclosure (specifically pages 16-26) and the knowledge of one of ordinary skill in the art, said one would not be able to make the following claimed structures.

Regarding claim 1 and those dependent therefrom, one of ordinary skill in the art could not construct a structure that could determine within a predetermined time span, one or more temporal parameters of the data produced by the timer at the moment they are read by means. Further, one could not construct a computation of the algebraic sum between the current time of reading of information from memory and a member comprising particular one, or more temporal parameters without undue experimentation. The method of computation of the algebraic sum between the current time reading and member comprising particular one also could not be

understood by one of ordinary skill in the art. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 2, one of ordinary skill in the art could not construct a structure that determines the average rate of change of the data produced by timer at the moment when they are read by means, and moments of recording the hypothetical information being computed without undue experimentation. The method of computation of the difference between the current time reading and member comprising ratio of said difference could not be understood by one of ordinary skill in the art. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 3, one of ordinary skill in the art could not construct a structure that computes the average change rate of the data produced from the timer before recording of the hypothetical information and as the data is read and the moments of the recording of hypothetical information computed without undue experimentation. The method of computation of the algebraic sum between the current time reading and member consisting of the ratio also could not be understood by one of ordinary skill in the art. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 4, one of ordinary skill in the art could not construct a structure that determines the average time interval between current data produced by timer and during the timer of reading and moments of recording the hypothetical information being computer without undue experimentation. The method of computation of the difference between the current time of reading information and a member consisting of production also could not be understood by

one of ordinary skill in the art. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 5, one of ordinary skill in the art could not construct a structure that determines before recording the hypothetical information the average time interval between the current data produced by the timer and moments of recording of the hypothetical information being computed by computing the sum between current time and a production of different taken with the minus sign without undue experimentation. The method of computation of the sum between the current time of reading and a member consisting of production of difference taken with the minus sign also could not be understood by one of ordinary skill in the art. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 6, one of ordinary skill in the art could not construct a structure that determines the average data change rate by way of computing the ratio of the difference of the timer current data and the current times of reading without undue experimentation. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 7, one of ordinary skill in the art could not construct a structure that determines the average time interval between the data by way of computing the ratio of the difference of the current times and the current data read corresponding to the current time without undue experimentation. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 8, one of ordinary skill in the art could not construct a structure that increases the computed information recording time by a value associated with an error without

undue experimentation. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 9 and those dependent therefrom, one of ordinary skill in the art could not construct a structure that determines one of the constituents of error after multiplying a relative error of temporal parameters of timer data and the difference of its data without undue experimentation. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 10 and those dependent therefrom, one of ordinary skill in the art could not construct a structure that determines a relative error of temporal parameters of timer by computer maximal difference without undue experimentation. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 12, one of ordinary skill in the art could not construct a structure that determines the error by analyzing comparison of moments of recording in memory device of a reference information which moments have been computed on the basis of timer data without undue experimentation. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 13 and those dependent therefrom, one of ordinary skill in the art could not construct a structure that stores at the information recording moment a code number of the timer and records moments being computed after computation of the difference between these code numbers and the corresponding timer data when they are read without undue experimentation. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 29 and those dependent therefrom, one of ordinary skill in the art could not construct a structure that predicts the information from a source of true information by recording hypothetical results in memory with a timer, an indicator, communication means, and at least one means for measuring temporal characteristics of data produced by timer without undue experimentation. Applicant has only described functionality without providing any structure to perform such functionality.

Regarding claim 30, one of ordinary skill in the art could not construct a structure that measures temporal characteristics without undue experimentation. Applicant has only described functionality without providing any structure to perform such functionality.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1 and those dependent therefrom, the statement "computing said moments at data collection center or subscriber location after reading of timer data thereat, which data are stored in memory of memory means, and reading of data produced by timer during reading thereof" is indefinite as it does not particularly point out that which the applicant is attempting to claim.

Regarding claim 1 and those dependent therefrom, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claims 1, 2, 4-7, 28, 29 and those dependent therefrom, the word "means" is not preceded by a modifier. An empty means clause therefore exists. Since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 14 and those dependent therefrom, the phrase "at the moment of simultaneous storing of all information relating to a corresponding drawing version" renders the claim indefinite because it is not clear exactly what moment is being described or the time period in which the desired function should occur.

Regarding claim14 and those dependent therefrom, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

The term "variants" in claims 15, 16, and 25 is a relative term which renders the claim indefinite. The term "variants" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite definition, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The term "algorithm for forming variants" in claim 16 is a relative term which renders the claim indefinite. The term "algorithm for forming variants" is not defined by the claim, the

specification does not provide a standard for ascertaining the requisite function, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 23 recites the limitation "the data extracted by decoder" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 26, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 29 and those dependent therefrom, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 29 and those dependent therefrom, the term "at least one" in claim 29 is a relative term that renders the claim indefinite. The term "at least one" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Regarding claim 29 and those dependent therefrom, the word "means" is preceded by the word(s) "communication" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 31, the word "means" is preceded by the word(s) "effects generating" in an attempt to use a "means" clause to recite a claim element as a means for performing a

specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 33, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

For examination purposes, the claims have been examined based upon the support provided for the limitations in the specification as that which is understood by the Examiner and would be enabled to one of ordinary skill in the art.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-35 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kasparov et al (WO 00/13757).

It appears the instant claimed invention was described in a printed publication more than one year prior to the filing date of the instant application.

Claims 1, 11, 17, 18, and 22 as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Libby et al. (US Patent No. 5,722,890).

Libby et al. discloses a method for holding lotteries where a player can access a memory device in which they can enter selection data through input /output means (Column 6, lines 27-29). The kiosk has a memory for storing selection data in memory (Column 6, lines 41-42) input externally by the player. Once the player has completely entered their selection data, a time tag is applied at the determined moment and the data is sent to a central data collection station (Column 6, lines 60-62). Libby et al. also disclosed that once the information is generated to the central data collection station, the data is checked for validity and if it is not valid a signal is sent that an error occurred (Column 7, lines 1-3). Libby et al. disclose that in an embodiment of the system, an animated video representing a horse race is presented to users (Column 8, lines 31-33) thus forming a game area that corresponds to the held event. This game area is automatically formed upon completion of registering all users.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 19-21 and 24 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Libby et al. (US Patent No 5,722,890) in view of Bolan (US Patent No. RE. 32,480).

What Libby et al. disclose has been discussed above and is incorporated herein.

While Libby et al. disclose a lottery system; they do not specifically disclose the system for use in Bingo.

Bolan discloses a similar memory device to the one disclosed by Libby et al. In the device of Bolan, the wireless and handheld device is used for Bingo with a specific game area corresponding to Bingo lottery tickets. The electronic bingo player of Bolan has a card memory (Column 3, line 39) for storing the player hypothetical information. When letter/number combinations are selected during play, they are input into the memory device and compared with that of the player's numbers to detect a winning combination (Abstract). Furthermore, lotteries such as Russian Lotto and roulette would have been obvious adaptations to Bolan to one skilled in the art at the time of invention.

It would have been obvious to one skilled in the art at the time of invention to incorporate the memory device of Bolan into the system of Libby et al. first because of their similar structure

and function as well as an alternative lottery means in order to offer the player more variety in their gaming and therefore making the system more desirable to the user as they would not become easily bored with the limited offerings of Libby et al.

Claims 26-27 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Libby et al. (US Patent No 5,722,890) in view of Bolan (US Patent No. RE 32,480) further in view of Perrie et al. (US Patent No. 6,173,955).

What Libby et al. and Bolan disclose, teach, and or suggest has been discussed above and is incorporated herein.

While Bolan discloses that the memory device can alert users of a winning combination, it is not disclosed how the user actually obtains his/her winnings. It is well known in the art that user devices can be credited/debited upon completion of gaming. This fact is supported by Perrie et al. disclose that when a user is playing a game and desires to cash out, the credits can be delivered to a smart card device (Column 8, lines 10-20). A smart card is well known to those skilled in the art to have a memory. It would have been obvious to one skilled in the art at the time of invention to allow users to credit the memory of the Bolan memory device in the manner established by Perry when they desire to cash out. By doing this, users would not have to deal with cash and be able to keep all of their bingo award winnings on the associated memory of their device for easy storage and access.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

GB 2,180,460: Machine for use in a game of chance comprising a memory, input output means, error correction, and matching of winning and played numbers.

US Patent No. 6,354,941: Electronic play of bingo players have game boards with memory and are connected to a central computer that is used to download different game areas into the player computer.

US Patent No. 5,117,358: Portable electronic device for comparing and destroying information comprising a keyboard and a memory and a visual display to reveal the results of the comparison.

US Patent No. 4,768,151: Electronic device for managing bingo cards wherein the card values are stored into memory and compared to the "called" values to determine a winner.

US Patent No. 4,813,676: Lototron device with axles and rotatable parts to select random number.

US Patent No. 4,651,995: Electronic device for playing bingo where stored numbers are compared to winning numbers in order to alert the player.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Friday (7:30AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, V. Martin-Wallace can be reached on (703)-308-1148. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

cmm
December 11, 2002

MICHAEL O'NEILL
PRIMARY EXAMINER